



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.05.2017

CORAM:

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

A.S(MD)No.64 of 2014

MP(MD)No. 1 of 2014

and

CMP (MD) No.4374 of 2017

1.P.Mathiyalagan (Died),

2.M.Sharmila,

3.M.Muthukumar,

4.M.Sivaneshwari,

5.M.Umamaheswari,

..Appellants /Defendants

Memo filed in USR.1771 Dated 15.04.2015 to the effect that 1<sup>st</sup> appellant died and appellants 2 to 5 are legal representatives of the deceased 1<sup>st</sup> appellant, is recorded, vide Court order dated 02.05.2017 made in A.S(MD)No.64 of 2014.

Vs.

S.Geetha

..Respondent/Plaintiff

PRAYER: Appeal Suit is filed under Section 96 of the Civil Procedure Code, against the Judgement and Decree dated 09.04.2013 passed in O.S.No.149 of 2012 on the file of the Court of the II Additional District and Sessions Judge, Tiruchirappalli.

For Appellants : Ms.J.Maria Roseline  
For Respondent : Mr.R.Nandakumar

#### JUDGMENT

Challenge in this Appeal Suit is to the Judgment and Decree dated 09.04.2013, made in O.S.No.149 of 2012, on the file of the II Additional District and Sessions Judge, Tiruchirappalli.

2. The defendants in O.S.No.149 of 2012 had filed this appeal, aggrieved by the judgment dated 09.04.2013. The suit in O.S.No.149 of 2012 had been filed by the present respondent, seeking specific performance of the agreement of sale deed dated 04.06.2012.

3. After trial, the II Additional District Judge Tiruchirappalli by judgment and decree dated 09.04.2013 had decreed the O.S.No.149 of 2012. Pending the appeal proceedings, the first appellant Mathiyalagan was reported as dead. A memo has also been filed by the Counsel for the appellants to that effect. The said memo was recorded.



4. The Office had been directed to record the death of the first appellant namely, P.Mathiyalagan and also further record that the appellants 2 to 5, who are already on record, are the legal representatives of the deceased first appellant.

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5. Much credit has to be given to Mr.R.Nandakumar, the learned counsel for the respondent and Ms.J.Maria Roseline, learned counsel for the appellants, for the efforts taken by them to bring out amicable settlement between the parties. A memo of compromise had been filed and according to the same, the respondent S.Geetha who is the plaintiff has agreed to withdraw the balance sale consideration now available to the credit of O.S.No.149 of 2012 to an amount of Rs.6,00,000/- (Rupees Six Lakhs Only) which had been deposited in the State Bank of India, Trichirappalli Main Branch, Trichirappalli, together with the accrued interest. The II Additional District Court, Trichirappalli, is requested to pay back the amount together with accrued interest till date to S.Geetha, w/o.Selvaraj, residing at No.28/D, Panikkan Nagar Street, Woraiyur, Trichy-3, on proper acknowledgement and identification. Thus, the litigation relating to specific performance comes to an natural end. In view of the compromise, the appeal is allowed in terms of the compromise.

6. The memo of compromise has been signed by the appellants M.Muthukumar (third appellant), M.Sivaneshwari (fourth appellant) and M.Umamaheswari (fifth appellant). The second appellant M.Sharmila is said to have been incapacitated owing to an accident and an affidavit has been filed in that regard by the learned counsel for the appellant. The memo of compromise was signed by the appellants 3 to 5 and respondent in the Court in the presence of the learned counsel for the appellants as well as learned Counsel for the respondent. The same is recorded as part of the records in this appeal. The appeal is allowed in terms of compromise. The compromise memo shall form part and parcel of the decree. Both sides shall bear their respective costs. Consequently, the connected miscellaneous Petitions are closed.

7. It is brought to the notice of this Court that the appeal has been instituted after obtaining permission as indigent person. Therefore, the condition stipulated in section 22 of Civil Procedure Code has to follow and accordingly, the copy of this order is to be issued to the District Collector, Trichirappalli, for taking necessary further proceedings with respect to the Court fees payable in the appeal.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar.



To

1. The II Additional District and Sessions Judge,  
Tiruchirappalli. (To take appropriate proceedings to collect  
necessary Court fee)

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2. The Record Keeper, VR Section, Madurai Bench of  
Madras High Court, Madurai.

**Copy to**

The District Collector,  
Trichirappalli. (to collect necessary court fees)

+1CC to M/S.J.Maria Roseline, Advocate, SR.No. 55304

+1CC to M/S.R.Nandakumar, Advocate, SR.No. 55308

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RM/RMK

AM/RSK/SAR 1/31.05.2017/3P/6C